

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

JAMES JOSEPH JULUKE, JR.,)	
an individual,)	
)	Case No.: 3:14-cv-03271-M
Plaintiff,)	
v.)	
)	
RETAIL SWC MALL LLC,)	
a Texas Limited Liability Company,)	
)	
Defendant.)	
_____)	

**PLAINTIFF’S SUPPLEMENTAL MEMORANDUM IN SUPPORT OF
MOTION FOR DEFAULT JUDGMENT**

Plaintiff, JAMES JOSEPH JULUKE, JR., through his undersigned counsel, hereby files this Supplemental Memorandum in Support of its Motion for Default Judgment against Defendant RETAIL SWC MALL LLC. Specifically, the Court has ordered Plaintiff to brief the adequacy of service in this action. Plaintiff states the following in response:

Plaintiff’s Service

On September 10, 2014, Plaintiff filed this Complaint [D.E. 1] and a summons was issued by the Clerk on the same date. [D.E. 4]. Subsequently, Plaintiff attempted service on James Khezrie at 3662 W. Camp Wisdom Rd., Ste. 1084, Dallas, TX 75237. Mr. Khezrie is listed on the Texas Secretary of State website as both the registered agent *and* manager for Defendant. Additionally, according to its corporate filings with the Texas Secretary of State, 3662 W. Camp Wisdom Rd. is the company’s principal place of business, not a separate registered agent office. See Exhibit “A”.

On September 17, 2014, Plaintiff’s process server went to the Defendant’s principal place of business at the address listed above and attempted service upon Mr. Khezrie. However,

Ms. Lisa Powell Long, who identified herself as General Manager of the Defendant, accepted service on behalf of the company in place of Mr. Khezrie. [D.E. 5]. As noted on the Company's website, Ms. Long is indeed the General Manager at the Defendant's company. See Exhibit "B".

The company's website states, in part:

In 2008, a skillful and energetic **General Manager, Lisa Powell Long** was brought in to redevelop the property. The current owners purchased the property in 2009. Combined with recommendations from a city funded study, The Ownership and the General Manager have not only revitalized the mall, but are affecting an entire community. (emphasis added).

See id. (<http://www.swcmall.com/main.asp?categoryid=1&level=>). Plaintiff's counsel also contacted the Defendant at the phone number listed on the same webpage noted above and verified that Ms. Long remains the Defendant's General Manager. Id.

Plaintiff also sent follow-up correspondence to the Defendant on October 21, 2014, containing a copy of the Plaintiff's Request for Clerk's Entry of Default, the Complaint, Summons and all attachments. See Exhibit "C". Furthermore, Plaintiff mailed Defendant a copy of the Motion for Default, including all of its attachments, on February 17, 2015. See Exhibit "D". However, despite *personal service* upon Lisa Long, Defendant's general manager, and the above described follow up mailings, Defendant has failed to enter an appearance, answer or other respond to the Complaint. Consequently, Plaintiff respectfully requests that its Motion for Default [D.E. 9] be granted.

Service on the Defendant's General Manager was Proper

As discussed above, Plaintiff's process server visited the Defendant's corporate office at 3662 W. Camp Wisdom Rd. and attempted to serve process on Mr. Khezrie. However, Lisa Powell Long, who identified herself and who is confirmed to be the Defendant's General Manager, volunteered to accept service instead. As stated in Fed. R. Civ. P. 4(h), service may be

perfected by “delivering a copy of the summons and of the complaint to an officer, a managing or general agent, or any other agent authorized by appointment or by law to receive service...”

As General Manager of the Defendant, Ms. Long is a proper party to receive personal service of process. Consequently, Plaintiff’s personal service upon the Defendant’s General Manager satisfies the requirements outlined in Rule 4.

WHEREFORE, the Court should grant Plaintiff’s Motion for Default Judgment against the Defendant.

Respectfully Submitted,

KU & MUSSMAN, P.A.

By: /s/ Louis Mussman.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 16th day of February, 2015, a true and correct copy of the foregoing has been furnished by U.S. Mail to: Retail SWC Mall LLC, c/o: registered agent, James Khezrie, 3662 W. Camp Wisdom Road, Suite 1084, Dallas, Texas 75237.

By: /s/ Louis I. Mussman
Louis I. Mussman